IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 24190 of 2004

Between:

B. Pocham, S/o Balaraju,
Gram Panchayat, Godisiryal, Kadem Mandal, Adilabad District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by its Principal Secretary to the Panchayath Raj Department, Secretariat Buildings, Hyderabad.
2 The District Collector (Panchayath Wing), Adilabad District, Adilabad.
3 The Divisional Panchayath Officer, Nirmal, Adilabad District.
4 The Extension Officer, (PR & RD) Kaddam, Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of mandamus or any other appropriate writ declaring the order passed by the respondent No.1 in G.O.Rt.No. 1981 dated 20-12-2004 confirming the order in proc No. 893/K4.pts/03 dated 26-10-2004 passed by the respondent No.2 and the consequential orders issued in this regard by the respondent No.2 is arbitrary, illegal, null and void and also violative of the section 264 (2) of the A.P. Panchayath Raj Act and also violative of principles of natural justice.

Counsel for the Petitioner : MR. C.HARI PREETH

Counsel for the Respondents : GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.24190 OF 2004

ORAL ORDER :

The petitioner is the elected Sarpanch of Godisiryal Gram Panchayat, Kodem Mandal, Adilabad District. By proceedings dated 26-10-2004 issued by the second respondent – The District Collector (Panchayat Wing), Adilabad, the petitioner was suspended under Section 249(6) of The A.P. Panchayat Raj Act, 1994 (for short, 'the Act') with immediate effect. Aggrieved by the said order, the petitioner preferred a Revision before the first respondent under Section 264 of the Act along with an application seeking stay of the order of suspension under Section 264(2) of the Act. It appears that no orders have been passed by the first respondent. Aggrieved by the said action, the petitioner filed W.P.No.21122 of 2004 in this Court. The said writ petition was disposed of by this Court on 18-11-2004 directing the first respondent to dispose of the Revision Petition within a period of two weeks from the date of receipt of that order. However, the Revision Petition was not disposed of within the time specified by this Court and the petitioner was constrained to file W.P.No.23452 of 2004. The said writ petition was disposed of on 16-12-2004 on the basis of the submission made by the learned Counsel appearing for the respondents that the Revision Petition will be positively disposed of by 20-12-2004. Thereafter, the

impugned order dated 20-12-2004 has been passed by the first respondent confirming the order of suspension dated 26-10-2004 and thereby dismissing the Revision Petition. There was also a direction to the second respondent to take necessary action for removal and to recover the alleged misappropriated amount. Aggrieved by the said order dated 20-12-2004, this writ petition is filed.

The contention of the petitioner is that the impugned order dated 20-12-2004 has been passed by the first respondent without notice to either the petitioner or his Counsel. It is stated that the said order has been passed hurriedly only to show that the directions of this Court in W.P.No.23452 of 2004 are complied with and since there was no notice to the petitioner, the said order cannot be sustained and liable to be set aside.

The learned Government Pleader under instructions states that as a matter of fact a telegram was issued to the petitioner informing about the date of hearing, however, the petitioner failed to appear before the first respondent and therefore the impugned order has been passed on the basis of the material on record.

It is to be noted that W.P.No.23452 of 2004 was disposed of by this Court on 16-12-2004. Thereafter, the impugned order came to be passed on 20-12-2004. Even according to the respondents, the petitioner was intimated the date of hearing by way of telegram and nothing has been placed before this Court to show that the said telegram was actually served on the petitioner. In the circumstances, I am unable to hold that the petitioner was afforded an opportunity. The fact remains that the impugned order was passed merely on the basis of the material on record and thereby confirming the order of suspension. The version of the petitioner has not been considered at all. In the circumstances, I am of the view that the principles of natural justice require reconsideration of the matter after affording an opportunity to the petitioner.

Accordingly, the impugned order dated 20-12-2004 is set aside and the Writ Petition is disposed of with a direction to the first respondent to consider the

Revision Petition filed by the petitioner against the order of the second respondent dated 26-10-2004 afresh and to pass appropriate orders in accordance with law after due notice and opportunity of hearing to the petitioner. Such exercise shall be completed as expeditiously as possible preferably within a period of four weeks from the date of receipt of this order. Till such time, Status Quo shall be maintained. No costs.

_____

11th February, 2005.

Note:- CC in 3 days.

(B/O)

gbs

To

1 The Principal Secretary, Government of Andhra Pradesh, Panchayath Raj Department, Secretariat Buildings, Hyderabad.
2 The District Collector (Panchayath Wing), Adilabad District, Adilabad.
3 The Divisional Panchayath Officer, Nirmal, Adilabad District.
4 The Extension Officer, (PR & RD) Kaddam, Adilabad District.

5. Two CCs to G.P. for Panchayat Raj & Rural Development, High Court of AP Bldgs, Hyderabad (OUT).

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